UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,387	10/22/2001	Barbara L. Barros	056156-5001	1148

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EXAMINER
THAI, CUONG T

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/007,387	BARROS, BARBARA L.
	Examiner	Art Unit	
	CUONG T THAI	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>November 29, 2004 Amendment.</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-10</u> is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-10</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>22 October 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
          application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

FINAL ACTION

1.   This action is responsive to Amendment filed on November 29, 2004.

2.   Claims 1-10 are presented for examination.

Claim Rejections - 35 USC § 101

3.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Double Patenting Rejections

4.   The non-statutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130 (b).
Effective January 01, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73 (b).

5.   Claims 1-10 of patent 6,307,573 B1 contains every element of claims 1-10 of the

instant application and such anticipates claims 1-10 of the instant application.

        "A later patent claim is not patentably distinct from an earlier patent claim if the

later claim is obvious over, or anticipated by, the earlier claim. In re Longi, 759 F.2d at

896, 225 USPQ at 651 (affirming a holding of obvious-type double patenting because

the claims at issue were obvious over claims in the prior art patents); In re Berg, 140

F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-

type double patenting where a patent application claim to a genus is anticipated by a

patent claim to a species within that genus). "ELI LILLY AND COMPANY v BARR

LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON

PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

6.   As to claims 1, 5, and 8; these claims include limitations of: a data processing

system for organizing, retrieving, and displaying data comprising: a database and

associated software for storing, organizing, and retrieving data about elements and their

attributes; a display for displaying a visual representation of selected subset elements

for comparison with: 1) each of the different, user selected subsets given its own

symbol, text, or common image format and 2) each element's symbol text, or image

given a slot on the display wherein the slot may be: i) designated by x, y, and z

locations representing its real or symbolic relationship to other elements or ii) within a

grid: and control for showing and hiding subsets on the visual representation which

include: display control panel(s) with graphic and text-list selectors that, in response to

user events or automatic updating system, call to the database to determine subset

elements to be added and subtracted from the visual representation (see claim 1); a

program controlled data processing system for implement an infrastructure for

presenting a collection of user selected information elements to facilitate translation of

complex topical data to an enhanced display format comprising: a display control panels

for receiving user commands and implementing a selective layering of data in the form

of graphics, text and/or images onto a base representation wherein control panel

includes control icons and text lists for manipulating the content of selective layers in

accord with user defined objectives; database comprising one or more data elements

for use in providing the substance to layered data; central display controller in

communication with database and control panel for interpreting commands received by

control panel and directing the placement of data elements in accordance with a pre-

programmed hierarchy; and said display interconnected to central display controller for

receiving image data including a base image and one or more selected layers for visual

perception by user (see claim 5); and in a display management system for displaying

complex data elements comprising: first database having a plurality of data elements on

a subject and its graphic information wherein elements are stored in volatile memory

and first database capable of being refreshed with current data from a second

database; a display processor characterized that provide one or more users with control

icons on display for selectively recalling collections of data wherein icons further

arranged in hide-able panels; communication for linking first database with second

database to provide refreshed data elements therefrom; and display for providing a

multi-dimensional representation of selected data element layers in accordance with

user commands and program controlling logic (see claim 8), which already included in

claims 1, 5, and 8 of US Patent 6,307,573 B1. It is well settled that the omission of an

element and its function [i.e., alternatives to scroll bars which enable graphic and

text-list selectors to be displayed in discrete, layered blocks, any one of which may be

called forward by clicking, or otherwise signaling, on a segmented bar, arrowhead, or

other symbol (see claim 1) and data elements relating to subjects wherein data

elements includes three-dimensional graphics and/or images (see preamble of claim 8)]

are obvious expedient if the remaining elements perform the same function as before. In

re Karlson, 136, USPQ 184 (CCPA 1963). Also note Ex parte Rainu, 168 USPQ 375

(Bd. App. 1969). Therefore, omitting various elements from the previous claimed subject

matter would have been obvious to one of ordinary skill in the art in this case since the

remaining elements do in fact perform the same functions as before.

Elimination/Changing an element or its function will not serve as a basis for

patentability.

Allowable Subject Matter

7.   Claims 1, 5 and 8 are allowed. Claims 2-4, 6-7, and 9-10 are further limits of

allowed independent claim 1, 5 and 8,respectively. However, these claims 1, 5, and 8

are still subject to the 101 double patenting rejection as discussed in paragraphs 3-4

above.

8.   The following is an examiner's statement of reasons for allowance:

        The Examiner has carefully considered each of the three independent claims 1,

5, and 8. None of the prior arts of record discloses or suggest any of a data processing

system for organizing, retrieving, and displaying data comprising: a database and

associated software for storing, organizing, and retrieving data about elements and their

attributes; a display for displaying a visual representation of selected subset elements

for comparison with: 1) each of the different, user selected subsets given its own symbol

or common image format and 2) each element's symbol or image given a slot on the

display wherein the slot may be: i) designated by x, y, and z locations representing its

real or symbolic relationship to other elements or ii) within a grid: and control for

showing and hiding subsets on the visual representation which include: display control

panel(s) with graphic and text-list selectors that, in response to user events or automatic

updating system, call to the database to determine subset elements to be added and

subtracted from the visual representation (see claim 1). The prior art of records does not

discloses or suggest in combination in a program controlled data processing system for

implement an infrastructure for presenting a collection of user selected information

elements to facilitate translation of complex topical data to an enhanced display format

comprising: display control panels for receiving user commands and implementing a

selective layering of data in the form of graphics, text and/or images onto a base

representation wherein control panel includes control icons and/or text lists for

manipulating the content of selective layers in accord with user defined objectives; a

database comprising one or more data elements for use in providing the substance to

layered data; a central display controller in communication with database and control

panel for interpreting commands received by control panel and directing the placement

of data elements in accordance with a preprogrammed hierarchy; and said display

interconnected to central display controller for receiving image data including a base

image and one or more selected layers for visual perception by user (see claim 5). In

addition, the prior arts of record fail to suggest in combination in a display management

system for displaying complex data elements with said system comprising: a first

database having a plurality of data elements on a subject and its graphic information

wherein elements are stored in volatile memory and first database capable of being

refreshed with current data from a second database; a display processor characterized

that provide one or more users with control icons on display for selectively recalling

collections of data wherein icons further arranged in hide-able panels; a communication

for linking first database with second database to provide refreshed data elements

therefrom; and a display for providing a multi-dimensional representation of selected

data element layers in accordance with user commands and program controlling logic

(see claim 8).

Corona et al. (USPN: 5,475,812) is cited for controlling of multiple planes in

multiple windows environment. Corona, however, does not discloses any of designated

by x, y, and z locations representing its real or symbolic relationship to other elements

or ii) within a grid: and control for showing and hiding subsets on the visual

representation which include: display control panel(s) with graphic and text-list selectors

that, in response to user events or automatic updating system, call to the database to

determine subset elements to be added and subtracted from the visual representation

OR directing the placement of data elements in accordance with a pre-programmed

hierarchy; and display interconnected to central display controller for receiving image

data including a base image and one or more selected layers for visual perception by

user OR in combination in a display management system for displaying complex data

elements relating to subjects wherein data elements includes three-dimensional

graphics and/or images comprising: a first database having a plurality of data elements

on a subject and its graphic information wherein elements are stored in volatile memory

and first database capable of being refreshed with current data from a second

database; a display processor characterized that provide one or more users with control

icons on display for selectively recalling collections of data wherein icons further

arranged in hide-able panels; communication for linking first database with second

database to provide refreshed data elements therefrom; and display for providing a

multi-dimensional representation of selected data element layers in accordance with

user commands and program controlling logic.

Like Corona et al., Marusak (USPN: 5,592,604) discloses window data with its

corresponding subsets. Marusak also lacking of suggesting any of any of designated by

x, y, and z locations representing its real or symbolic relationship to other elements or ii)

within a grid: and control for showing and hiding subsets on the visual representation

which include: display control panel(s) with graphic and text-list selectors that, in

response to user events or automatic updating system, call to the database to

determine subset elements to be added and subtracted from the visual representation

OR directing the placement of data elements in accordance with a pre-programmed

hierarchy; and display interconnected to central display controller for receiving image

data including a base image and one or more selected layers for visual perception by

user OR in combination in a display management system for displaying complex data

elements relating to subjects wherein data elements includes three-dimensional

graphics and/or images comprising: a first database having a plurality of data elements

on a subject and its graphic information wherein elements are stored in volatile memory

and first database capable of being refreshed with current data from a second

database; a display processor characterized that provide one or more users with control

icons on display for selectively recalling collections of data wherein icons further

arranged in hide-able panels; a communication for linking first database with second

database to provide refreshed data elements therefrom; and display for providing a

multi-dimensional representation of selected data element layers in accordance with

user commands and program controlling logic.

Grau et al. (USPN: 5,910, 803) and Marvin (USPN: 5,864,337)are cited for

system and method for collecting and organizing hierarchical collection items in atlas

map view. Grau and Marvin, however, do not disclose or suggest any of call to the

database to determine subset elements to be added and subtracted from the visual

representation OR in combination in a program controlled data processing system for

implement an infrastructure for presenting a collection of user selected information

elements to facilitate translation of complex topical data to an enhanced display format

comprising: a display control panels for receiving user commands and implementing a

selective layering of data in the form of graphics, text and/or images onto a base

representation wherein control panel includes control icons and text lists for

manipulating the content of selective layers in accord with user defined objectives;

database comprising one or more data elements for use in providing the substance to

layered data; central display controller in communication with database and control

panel for interpreting commands received. By control panel and directing the placement

of data elements in accordance with a preprogrammed hierarchy; and display

interconnected to central display controller for receiving image data including a base

image and one or more selected layers for visual perception by user OR in combination

in a display management system for displaying completes data elements relating to

subjects wherein data elements includes three-dimensional graphics and/or images

comprising: a first database having a plurality of data elements on a subject and its

graphic information wherein elements are stored in volatile memory and first database

capable of being refreshed with current data from a second database; a display

processor characterized that provide one or more users with control icons on display for

selectively recalling collections of data wherein icons further arranged in hide-able

panels; communication for linking first database with second database to provide

refreshed data elements therefrom; and display for providing a multi-dimensional

representation of selected data element layers in accordance with user commands and

program controlling logic.

None of Jackson (USPN: 5,894,311) and Spague et al. (USPN: 5,596,500)

disclose or suggest any of call to the database to determine subset elements to be

added and subtracted from the visual representation OR in combination in a program

controlled data processing system for implement an infrastructure for presenting a

collection of user selected information elements to facilitate translation of complex

topical data to an enhanced display format comprising: a display control panels for

receiving user commands and implementing a selective layering of data in the form of

graphics, text and/or images onto a base representation wherein control panel includes

control icons and text lists for manipulating the content of selective layers in accord with

user defined objectives; database comprising one or more data elements for use in

providing the substance to layered data; central display controller in communication with

database and control panel for interpreting commands received by control panel and

directing the placement of data elements in accordance with a preprogrammed

hierarchy; and display interconnected to central display controller for receiving image

data including a base image and one or more selected layers for visual perception by

user OR in combination in a display management system for displaying completes data

elements relating to subjects wherein data elements includes three-dimensional

graphics and/or images comprising: first database having a plurality of data elements on

a subject and its graphic information wherein elements are stored in volatile **memory**

and first database capable of being refreshed with current data from a second

database; a display processor characterized that provide one or more users with control

icons on display for selectively recalling collections of data wherein icons further

arranged in hide-able panels; communication for linking first database with second

database to provide refreshed data elements therefrom; and display for providing a

multi-dimensional representation of selected data element :Layers in accordance with

user commands and program controlling logic.

Conclusion

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG T THAI whose telephone number is (571) 272-4056. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca, can be reached at (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

CUONG T THAI
Examiner
Art Unit 2173

March 31, 2005.

RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173